

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 336

Introduced by Assembly Member Huff
(Coauthors: Assembly Members Garcia and Plescia)

February 10, 2005

An act to amend Section 11366.8 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 336, as amended, Huff. Controlled substances.

Existing law makes it a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment.

This bill would revise this provision to broaden the scope of its application by providing in addition that it is a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport any unlawfully possessed firearm or destructive device, as defined, or specified currency, money, negotiable instruments, or securities valued at \$5,000 or more intended to be exchanged for an unlawful purchase of controlled substances or that are the proceeds of an unlawful purchase of controlled substances, within the false compartment. By creating new crimes or expanding the scope of existing crimes, this bill would impose a state-mandated local program upon local government.

This bill would further provide that no vehicle belonging to a defendant convicted under this provision shall be returned to that defendant or otherwise disposed of until the false compartment is

rendered unusable, *as specified*, except if the vehicle is being sold for scrap metal. By imposing new duties on local peace officers, this bill would impose a state-mandated local program upon state government.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11366.8 of the Health and Safety Code
2 is amended to read:

3 11366.8. (a) Every person who possesses, uses, or controls a
4 false compartment with the intent to store, conceal, smuggle, or
5 transport a controlled substance, any unlawfully possessed
6 firearm or destructive device, or at least five thousand dollars
7 (\$5,000) in currency, money, negotiable instruments, or
8 securities that are intended to be exchanged for an unlawful
9 purchase of a controlled substance or are the proceeds from an
10 unlawful purchase of a controlled substance within the false
11 compartment shall be punished by imprisonment in a county jail
12 for a term of imprisonment not to exceed one year or in the state
13 prison.

14 (b) Every person who designs, constructs, builds, alters, or
15 fabricates a false compartment for, or installs or attaches a false
16 compartment to, a vehicle with the intent to store, conceal,
17 smuggle, or transport a controlled substance, any unlawfully
18 possessed firearm or destructive device, or at least five thousand
19 dollars (\$5,000) in currency, money, negotiable instruments, or
20 securities that are intended to be exchanged for an unlawful
21 purchase of a controlled substance or are the proceeds from an
22 unlawful purchase of a controlled substance shall be punished by

1 imprisonment in the state prison for 16 months or two or three
2 years.

3 (c) The term “vehicle” means any of the following vehicles
4 without regard to whether the vehicles are private or commercial,
5 including, but not limited to, cars, trucks, buses, aircraft, boats,
6 ships, yachts, and vessels.

7 (d) The term “false compartment” means any box, container,
8 space, or enclosure that is intended for use or designed for use to
9 conceal, hide, or otherwise prevent discovery of any controlled
10 substance, any unlawfully possessed firearm or destructive
11 device, or at least five thousand dollars (\$5,000) in currency,
12 money, negotiable instruments, or securities that are intended to
13 be exchanged for an unlawful purchase of a controlled substance
14 or are the proceeds from an unlawful purchase of a controlled
15 substance within or attached to a vehicle, including, but not
16 limited to, any of the following:

17 (1) False, altered, or modified fuel tanks.

18 (2) Original factory equipment of a vehicle that is modified,
19 altered, or changed.

20 (3) Compartment, space, or box that is added to, or fabricated,
21 made, or created from, existing compartments, spaces, or boxes
22 within a vehicle.

23 (e) The term “firearm” means any device, designed to be used
24 as a weapon, from which is expelled through a barrel a projectile
25 by the force of any explosion or other form of combustion; the
26 term “firearm” includes the frame or receiver of the weapon; the
27 term “firearm” also shall include any rocket, rocket propelled
28 projectile launcher, or similar device containing any explosive or
29 incendiary material whether or not the device is designed for
30 emergency or distress signaling purposes. The term “firearm”
31 does not include an unloaded firearm that is defined as an
32 “antique firearm” in Section 921(a)(16) of Title 18 of the United
33 States Code.

34 (f) The term “destructive device” is defined in Section 12301
35 of the Penal Code.

36 (g) No vehicle containing a false compartment shall be
37 returned to the vehicle’s owner or otherwise disposed of, unless
38 the vehicle is being sold for scrap metal, until the false
39 compartment is rendered unusable. *No false compartment shall*
40 *be rendered unusable until a defendant charged with violating*

1 *this section enters a plea of guilty, nolo contendere, or until a*
2 *determination of guilt has been entered by a judge or jury that a*
3 *defendant is guilty of violating this section.*

4 *(h) (1) If there is a community property interest in the vehicle*
5 *impounded pursuant to this section, owned at the time of*
6 *impoundment by a person other than the driver, and the vehicle*
7 *is the only vehicle available to the driver's immediate family that*
8 *may be operated with a class C driver's license, the vehicle shall*
9 *be released to a registered owner or to the community property*
10 *interest owner upon compliance with all of the following*
11 *requirements:*

12 *(A) The community property interest owner requests release of*
13 *the vehicle and the owner of the community property interest*
14 *submits proof of that interest.*

15 *(B) The community property interest owner submits proof that*
16 *he or she, or an authorized driver, is properly licensed and that*
17 *the impounded vehicle is properly registered.*

18 *(C) All towing, storage charges related to the impoundment,*
19 *and any costs related to the disabling of a false compartment, if*
20 *applicable, and any administrative charges are paid.*

21 *(2) Before releasing a vehicle to the community property*
22 *interest owner or their authorized driver, a law enforcement*
23 *agency shall render the false compartment unusable if doing so*
24 *does not result in the vehicle being in violation of any provision*
25 *of the Vehicle Code relating to vehicles which may be lawfully*
26 *operated with a class C driver's license.*

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution for
29 certain costs that may be incurred by a local agency or school
30 district because, in that regard, this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the
32 penalty for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition of a
34 crime within the meaning of Section 6 of Article XIII B of the
35 California Constitution.

36 However, if the Commission on State Mandates determines
37 that this act contains other costs mandated by the state,
38 reimbursement to local agencies and school districts for those

1 costs shall be made pursuant to Part 7 (commencing with Section
2 17500) of Division 4 of Title 2 of the Government Code.

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